

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 12, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1204

Introduced by Senator Runner
(Coauthor: Senator Harman)
(Coauthor: Assembly Member Lieu)

February 18, 2010

An act to amend Sections 290.013 and 290.015 of, and to add Section 290.0125 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1204, as amended, Runner. Sex offenders: social networking prohibition: online address notification requirement.

Existing law requires persons who have been convicted of specified crimes, and other persons as required by a court, to register as a sex offender. Existing law sets forth the procedure for doing so and provides that a violation of the sex offender registration law is a crime, punishable as specified.

~~This bill would prohibit a person who is required to register as a sex offender, as a condition of any parole, from opening an account on, or otherwise participating in, a social networking Internet Web site, as defined. The prohibition would apply to all registrants who are paroled on or after January 1, 2011, and to all previously registered parolees 10 days after receiving notice or after reregistration. The bill would provide that it shall not be construed to limit the parole authority from requiring additional parole conditions which may be appropriate. By creating new crimes, this bill would impose a state-mandated local program.~~

The bill would require a person who is required to register as a sex offender to inform the law enforcement agency or agencies with which he or she last registered of all of his or her online addresses, e-mail addresses, and instant messaging user names no later than December 31, 2011, and, thereafter, at the time of original registration and within 30 days of establishing a new online account, and would make it a misdemeanor for a person who is required to register as a sex offender to fail to notify the Department of Justice of any or all of his or her online addresses, e-mail addresses, and instant messaging user names, as specified. The bill would also provide that the department may permit social networking Internet Web sites to access data that is necessary to purge accounts of registered sex offenders. *do so*. By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 290.0125 is added to the Penal Code, to~~
2 ~~read:~~
3 290.0125. (a) Every person who is required to register pursuant
4 to the Act shall, as a condition of any parole, be prohibited from
5 opening an account on, or otherwise participating in, a social
6 networking Internet Web site, as defined in subdivision (c).
7 (b) ~~Subdivision (a) shall apply to all registrants who are paroled~~
8 ~~on or after January 1, 2011, and to all previously registered parolees~~
9 ~~10 days after receiving notice or after reregistration.~~
10 (c) ~~For purposes of this chapter, a “social networking Internet~~
11 ~~Web site” is defined as any of the following:~~
12 (1) ~~An Internet Web site that permits members, often including~~
13 ~~juveniles, to communicate with acquaintances and strangers, and~~
14 ~~allows individuals to do all of the following:~~
15 (A) ~~Construct a public or semi-public profile within a bounded~~
16 ~~system.~~

1 ~~(B) Articulate a list of other users with whom they share a~~
2 ~~connection.~~

3 ~~(C) View and traverse their list of connections and those made~~
4 ~~by others within the system.~~

5 ~~(2) An Internet-based service that explicitly calls itself a dating~~
6 ~~Internet Web site.~~

7 ~~(3) An Internet-based service that expressly prohibits~~
8 ~~participation by convicted sex offenders.~~

9 ~~(d) A “social networking Internet Web site” shall not include a~~
10 ~~professional networking Internet Web site or an electronic~~
11 ~~commerce Internet Web site, unless the Internet-based service~~
12 ~~prohibits participation by convicted sex offenders by its own terms.~~

13 ~~(1) A “professional networking Internet Web site” is defined~~
14 ~~as an Internet-based service that exists primarily for the purpose~~
15 ~~of allowing individuals to build a list of professional or business~~
16 ~~connections.~~

17 ~~(2) An “electronic commerce Internet Web site” is defined as~~
18 ~~an Internet-based service that exists primarily for the sale, purchase,~~
19 ~~or auction of goods.~~

20 ~~(e) This section shall not be construed to limit the parole~~
21 ~~authority from requiring additional parole conditions which may~~
22 ~~be appropriate.~~

23 ~~SEC. 2.~~

24 *SECTION 1.* Section 290.013 of the Penal Code is amended
25 to read:

26 290.013. (a) Any person who was last registered at a residence
27 address pursuant to the Act who changes his or her residence
28 address, whether within the jurisdiction in which he or she is
29 currently registered or to a new jurisdiction inside or outside the
30 state, shall, in person, within five working days of the move, inform
31 the law enforcement agency or agencies with which he or she last
32 registered of the move, the new address or transient location, if
33 known, and any plans he or she has to return to California.

34 (b) If the person does not know the new residence address or
35 location at the time of the move, the registrant shall, in person,
36 within five working days of the move, inform the last registering
37 agency or agencies that he or she is moving. The person shall later
38 notify the last registering agency or agencies, in writing, sent by
39 certified or registered mail, of the new address or location within

1 five working days of moving into the new residence address or
2 location, whether temporary or permanent.

3 (c) The law enforcement agency or agencies shall, within three
4 working days after receipt of this information, forward a copy of
5 the change of address information to the Department of Justice.
6 The Department of Justice shall forward appropriate registration
7 data to the law enforcement agency or agencies having local
8 jurisdiction of the new place of residence.

9 (d) If the person's new address is in a Department of Corrections
10 and Rehabilitation facility or state mental institution, an official
11 of the place of incarceration, placement, or commitment shall,
12 within 90 days of receipt of the person, forward the registrant's
13 change of address information to the Department of Justice. The
14 agency need not provide a physical address for the registrant but
15 shall indicate that he or she is serving a period of incarceration or
16 commitment in a facility under the agency's jurisdiction. This
17 subdivision shall apply to persons received in a department facility
18 or state mental institution on or after January 1, 1999. The
19 Department of Justice shall forward the change of address
20 information to the agency with which the person last registered.

21 (e) A person required to register pursuant to the Act shall ~~notify~~
22 ~~the Department of Justice regarding~~ *inform the law enforcement*
23 *agency or agencies with which he or she last registered* of all of
24 his or her online addresses, e-mail addresses, and instant messaging
25 user names no later than December 31, 2011, and thereafter, *at the*
26 *time of original registration and* within 30 days of establishing a
27 new online account. Notification may be filed in the same manner
28 as a change of address or may be completed and ~~verified online~~
29 ~~as permitted by the Department of Justice. The department may~~
30 ~~permit social networking Internet Web sites to access data that is~~
31 ~~necessary to purge accounts of registered sex offenders.~~ *verified*
32 *online as permitted by the Department of Justice.*

33 (f) Notwithstanding any other law, violation of subdivision (e)
34 shall constitute a misdemeanor punishable by imprisonment in ~~the~~
35 *a* county jail not exceeding six months, or by a fine not exceeding
36 one thousand dollars (\$1,000), or by both *that imprisonment and*
37 *fine.*

38 ~~SEC. 3.~~

39 *SEC. 2.* Section 290.015 of the Penal Code is amended to read:

1 290.015. (a) A person who is subject to the Act shall register,
2 or reregister if the person has previously registered, upon release
3 from incarceration, placement, commitment, or release on probation
4 pursuant to subdivision (b) of Section 290. This section shall not
5 apply to a person who is incarcerated for less than 30 days if he
6 or she has registered as required by the Act, he or she returns after
7 incarceration to the last registered address, and the annual update
8 of registration that is required to occur within five working days
9 of his or her birthday, pursuant to subdivision (a) of Section
10 290.012, did not fall within that incarceration period. The
11 registration shall consist of all of the following:

12 (1) (A) A statement in writing signed by the person, giving
13 information as shall be required by the Department of Justice and
14 giving the name and address of the person's employer, and the
15 address of the person's place of employment if that is different
16 from the employer's main address.

17 ~~(B) An acknowledgment that the person, while on parole, is~~
18 ~~prohibited under Section 290.0125 from opening an account on,~~
19 ~~or otherwise participating in, a social networking Internet Web~~
20 ~~site, as defined in subdivision (c) of Section 290.0125.~~

21 ~~(C)~~
22 (B) An acknowledgment that the person is required under
23 Section ~~290.0125~~ 290.013 to notify the ~~Department of Justice~~
24 ~~regarding law enforcement agency or agencies with which he or~~
25 ~~she last registered~~ of all of his or her online addresses, e-mail
26 addresses, and instant messaging user names no later than
27 December 31, 2011, and, thereafter, *at the time of original*
28 *registration and* within 30 days of establishing a new online
29 account.

30 (2) The fingerprints and a current photograph of the person
31 taken by the registering official.

32 (3) The license plate number of any vehicle owned by, regularly
33 driven by, or registered in the name of the person.

34 (4) Notice to the person that, in addition to the requirements of
35 the Act, he or she may have a duty to register in any other state
36 where he or she may relocate.

37 (5) Copies of adequate proof of residence, which shall be limited
38 to a California driver's license, California identification card, recent
39 rent or utility receipt, printed personalized checks or other recent
40 banking documents showing that person's name and address, or

1 any other information that the registering official believes is
2 reliable. If the person has no residence and no reasonable
3 expectation of obtaining a residence in the foreseeable future, the
4 person shall so advise the registering official and shall sign a
5 statement provided by the registering official stating that fact.
6 Upon presentation of proof of residence to the registering official
7 or a signed statement that the person has no residence, the person
8 shall be allowed to register. If the person claims that he or she has
9 a residence but does not have any proof of residence, he or she
10 shall be allowed to register but shall furnish proof of residence
11 within 30 days of the date he or she is allowed to register.

12 (b) Within three days thereafter, the registering law enforcement
13 agency or agencies shall forward the statement, fingerprints,
14 photograph, and vehicle license plate number, if any, to the
15 Department of Justice.

16 ~~SEC. 4.~~

17 *SEC. 3.* No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.